

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JAMES D. HARDEE,

Plaintiff,

vs.

No. CIV 04-0097 JB/WDS

JOSHUA BAER,
d/b/a JOSHUA BAER & COMPANY,
a New Mexico corporation,

Defendant.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on the Plaintiff's Motion for Scheduling and Discovery Conference, filed March 25, 2004 (Doc. 3). The primary issue is whether the Court should set an initial scheduling conference in this matter when the Plaintiff, James D. Hardee, has also filed a motion for default against the Defendant, Joshua Baer, d/b/a Joshua Baer & Company. Because, regardless whether a default is warranted, the Court will need to determine damages, the Court will grant Hardee's motion, and set an initial scheduling conference for Monday, June 14, 2004 at 10:00 a.m.

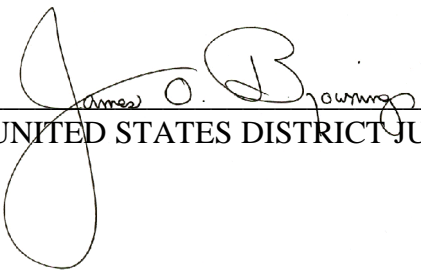
PROCEDURAL BACKGROUND

Hardee moves the Court to set an initial scheduling/discovery conference. Hardee has contacted Baer for concurrence. Baer voiced no objection to this motion, but indicated that he was obtaining legal counsel to respond. Baer has yet to file any written response.

ANALYSIS

Hardee states that, although he is entitled to a default judgment against Baer, Baer contests the damages that he owes Hardee, and discovery is necessary as to damages. Furthermore, this case involves claims for fraud and replevin. Discovery is also necessary to establish Baer's alleged fraudulent conduct for punitive damages and to determine the location and present holders of the personal property that is the subject matter of this lawsuit.

IT IS ORDERED that the Plaintiff's Motion for Scheduling and Discovery Conference is granted and an initial scheduling conference is set for Monday, June 14, 2004 at 10:00 a.m.



UNITED STATES DISTRICT JUDGE

Counsel:

Randolph B. Felker
Felker, Ish, Ritchie, & Geer, P.A.
Santa Fe, New Mexico

Attorneys for the Plaintiff

Joshua Baer
Santa Fe, New Mexico

Pro Se Defendant